

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **November 11, 2003**

AGENDA ITEM NO.: 14

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Amendment to the City Code, Section 2, Division 5, Internal Auditor and Audit Division**

RECOMMENDATION: Adopt the attached amendments to the City Code regarding the Internal Audit function.

SUMMARY: The attached amendments to the City Code are proposed to establish that the Internal Audit Director reports administratively to the City Manager and to clarify other sections related to this function.

PRIOR ACTION(S): The Audit Division has discussed the proposed changes and endorses them.

FISCAL IMPACT: N/A

CONTACT(S): Kimball Payne, Carol Bibb

ATTACHMENT(S): Proposed amendments.

REVIEWED BY: lkp

AN ORDINANCE TO AMEND AND REENACT SECTIONS 2-129 THROUGH 2-129.19, OF THE CODE OF THE CITY OF LYNCHBURG, 1981, AS AMENDED, THE AMENDED SECTIONS RELATING TO THE INTERNAL AUDIT AND AUDIT DIVISION.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Sections 2-129 through 2-129.19 of the Code of the City of Lynchburg, 1981, as amended, are hereby further amended as follows:

DIVISION 5. INTERNAL AUDITOR AND AUDIT ~~DIVISION~~ COMMITTEE

Sec. 2-129. Established.

The audit ~~division~~ committee and the office of internal auditor are hereby established and shall have the duties as set forth in this division.

Sec. 2-129.1. Appointment of ~~auditor~~ internal audit director.

~~The auditor~~ An internal audit director shall be selected by the audit ~~division~~ committee and ratified by a majority vote of the city council. The auditor shall serve at the pleasure of the city council and shall report administratively to the city manager. ~~The~~ director may be removed from office by a majority vote of the city council.

Sec. 2-129.2. Qualifications.

(a) The ~~auditor~~ director shall be knowledgeable in performance and financial auditing, public administration, and government financial and fiscal practices.

(b) The ~~auditor~~ director shall be a certified internal auditor (CIA), certified public accountant (CPA) or have an advanced degree in a relevant field with at least five (5) years experience in the field of government auditing, evaluation or analysis. ~~The auditor~~ He/she shall have a bachelors degree in accounting, business administration , public administration or a related field.

Sec. 2-129.3. Standards.

The ~~auditor~~ director and the ~~internal auditor's office staff~~ shall adhere to applicable standards issued by the Institute of Internal Auditors (IIA) and the United States General Accounting Office (GAO) in conducting its work and shall be considered independent as defined by those standards.

Sec. 2-129.4. Assistants and employees.

(a) The office shall be provided a separate budget to carry out the responsibilities and functions established in this division.

(b) The ~~auditor~~ director shall establish an organizational structure appropriate to carrying out his/her responsibilities and functions.

(c) Within the budget approval process and in accordance with established personnel policies for all departments, the ~~auditor~~ director shall have the power to appoint, employ, and remove such assistants, employees and personnel as may be authorized from time to time for the efficient and effective administration of the office.

Sec. 2-129.5. Responsibilities and scope of audits.

(a) The ~~auditor~~ director shall conduct his/her audit work in accordance with government auditing standards applicable to financial and performance audits and IIA standards applicable to process reviews and consulting engagements..

(b) The ~~auditor~~ director shall not conduct nor supervise an audit of an activity for which he/she was responsible or for which he/she was employed during the preceding two (2) years.

(c) The ~~auditor~~ director shall have authority to conduct performance and financial audits of all departments, offices, boards, activities and agencies of the city in order to independently determine whether:

(1) activities and programs being implemented have been authorized by the city code, state law or applicable federal law or regulations and are being conducted in a manner consistent with the intended objectives;

(2) the audited entity is acquiring, protecting, and using its resources (such as personnel, property and space) economically and efficiently, and the effectiveness of organizations, programs, activities, functions or policies, and the extent to which desired results or benefits are being achieved;

(3) financial and other reports are being provided that disclose fairly, accurately and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities, and that is necessary to establish a proper basis for evaluating the results of programs and activities including the collection of, accounting for and depositing of revenues and other resources;

(4) activities or programs efficiently and effectively serve the purpose intended by the city, state law or applicable federal law or regulations and are being conducted and funds expended in compliance with applicable laws;

(5) resources, including funds, property and personnel are adequately safeguarded, controlled and are being used efficiently and effectively, and in a manner consistent with the objectives intended by the city or enabling ordinance, statute or regulation;

(6) management has established adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls; and

(7) indications of fraud, abuse or illegal acts are present.

(d) Process reviews and consulting engagements will be performed as negotiated with the appropriate city official(s) requesting the review.

Sec. 2-129.6. Audit schedule.

(a) At the beginning of each fiscal year, the ~~auditor~~ director shall submit an annual work plan to the audit ~~division~~ committee for review and comment. The schedule shall include the departments, offices, boards, activities, subcontractors and agencies subject to audit, process reviews or consulting engagements for the period. This schedule may be amended during the period after review with the audit division. Additionally, the ~~auditor~~ director may spontaneously initiate and conduct any other audit deemed necessary.

(b) In the selection of audit areas, the determination of audit scope and the timing of audit work, the ~~auditor~~ director should consult with federal and state auditors and external auditors so that the desirable audit coverage is provided and audit effort is properly coordinated.

Sec. 2-129.7. Special audits.

The ~~audit division committee~~ may request ~~the auditor to perform~~ special audits that are not included in the annual audit schedule. After consultation with and approval of the ~~audit division committee~~, a special audit or consulting engagement requested by the city manager may become an amendment to the annual work plan.

#### Sec. 2-129.8. Funding and evaluation.

Funds that in the opinion of the city council are sufficient to carry out the responsibilities specified herein shall be provided (subject to available resources). The ~~auditor's~~ director's performance shall be evaluated annually by the ~~audit division committee~~.

#### Sec. 2-129.9. Records.

The ~~auditor~~ director shall retain a complete file of each audit report and each report of other examinations, investigations, surveys and reviews made under legislative authority as required by general law. The file should include audit work papers and other supportive material directly pertaining to the audit report.

#### Sec. 2-129.10. Access to records and property.

(a) All officers and employees of the City of Lynchburg and city agencies and commissions shall furnish the ~~auditor~~ internal audit staff with requested information and records (including automated data) within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the ~~auditor~~ audit staff to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned information, then the ~~auditor~~ internal audit director may cause a search to be made and exhibits to be taken from any book, paper, or record of any such official or employee, or outside contractor or subcontractor, except for personal information (as governed by state statute). Further, all contracts with outside contractors and subcontractors shall provide for auditor access to all financial and performance-related records, property, and equipment purchased in whole or in part with governmental funds and facilities.

(b) The ~~auditor~~ director shall not publicly disclose any information received during an audit that is considered confidential in nature by any local, state or federal law or regulation.

#### Sec. 2-129.11. Agency response.

~~A final draft of the~~ Drafts of all audit reports will be forwarded to the appropriate ~~city official(s)~~ supervisor and the ~~audit division~~ city manager for review and comment regarding content before it is being finalized and released. ~~City official(s)~~ Management of the audited area must respond in writing specifying agreement with findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to identified problems and a time table to complete such activities. The response must be forwarded to the ~~auditor~~ audit director within thirty (30) days. If no response is received, the ~~auditor~~ director will note that fact in the transmittal letter and will release the audit report. In the case of contracted audits, ~~audits reports~~ reports may be released without inclusion of a response. Any subsequent responses shall be distributed to those who received the audit report ~~(to the organization's audit division)~~.

#### Sec. 2-129.12. Audit reports.

(a) Each audit, examination, investigation, survey, and review will result in a written report. The report shall be available for public examination.

(b) The ~~auditor~~ director of internal audit shall submit each audit report to the audited activity, the division audit

committee, city council and the city manager and shall retain a copy in ~~his/her~~ the audit office as a permanent record.

#### Sec. 2-129.13. Report of irregularities.

If during an audit or other review, the auditor ~~becomes~~ becomes aware of abuse or illegal acts or indications of such acts that could affect the city, the ~~auditor~~ director shall report the irregularities to the ~~audit division~~ committee and the city manager. If the city manager is believed to be a party to abuse or illegal acts, the ~~auditor~~ audit director shall report the acts directly to the city attorney and the audit committee ~~city council~~. If it appears that the irregularity is criminal in nature, the ~~auditor~~ director shall immediately notify the commonwealth's attorney (when appropriate) in addition to those officials previously cited.

#### Sec. 2-129.14. Annual report.

The ~~auditor~~ director and the city manager shall submit an annual report to the ~~audit division~~ committee within ~~sixty thirty~~ (60 30) days before the end of the fiscal year indicating audits completed, major findings, corrective actions taken by administrative managers, and significant findings which have not been fully addressed by management.

#### Sec. 2-129.15. Audit follow-up.

(a) The ~~auditor~~ city manager shall follow-up on audit recommendations insofar as practical to determine if administrative managers are implementing corrective action.

(b) The ~~auditor~~ director may request periodic status reports from audited entities regarding action taken to address reported deficiencies and audit recommendations.

#### Sec. 2-129.16. Contract auditors, consultants and experts.

Upon approval of the ~~audit division~~ committee, the ~~auditor~~ director may obtain the services of public accountants, qualified management consultants, or other professional experts necessary to assist ~~the auditor~~ in the discharge of his/her responsibilities. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The ~~auditor~~ director will coordinate and monitor auditing performed under contract. Contracts for external audits will be awarded in accordance with the city procurement ordinance.

#### Sec. 2-129.17. Quality assurance reviews.

(a) The audit activities of the ~~auditor's~~ office of internal audit shall be subject to quality review at least once every three (3) years by a professional, non-partisan objective group utilizing guidelines endorsed by NALGA or the U.S. General Accounting Office. A copy of the written report of this independent review shall be furnished to each member of the city council. This report shall be available to the public.

(b) The quality control review shall determine compliance with Government Auditing Standards and the quality of audit effort and reporting, including:

- (1) general standards such as staff qualifications, due professional care, and quality assurance;
- (2) fieldwork standards such as planning, supervision, and audit evidence; and
- (3) reporting standards such as report content, presentation, and timeliness.

Sec. 2-129.18. Responsibilities of the audit ~~division~~ committee.

There is hereby established in and for the city an audit ~~division~~ committee. The audit ~~division~~ committee shall ~~have general supervision~~ provide oversight of the internal auditor activities and shall perform the following duties:

- (a) recommend selection of the external auditor;
- (b) ~~perform oversight of the external audit coverage including the development of the audit engagement letter, estimated fees, coordination with internal auditor,~~ participate in the external audit through the review of significant operational or reporting issues affecting the financial statements which were discussed by management and the external auditor, review of auditor performance, and meeting with external auditor to discuss pertinent matters;
- (c) select the internal auditor director subject to council approval;
- (d) review plans and objectives of the internal auditor director;
- (e) review results of internal audits and other engagements;
- (f) request ~~for~~ special audit projects;
- (g) review progress toward resolving previous findings and recommendations;
- (h) participate with the city manager in performing an annual performance evaluation of the internal auditor director.

Sec. 2-129.19. Membership of the audit ~~division~~ committee and selection.

The audit ~~division~~ committee shall be comprised of two (2) members of city council, the city manager who will be ex officio, and two (2) private sector members. The mayor shall select two members of city council to serve in on the audit ~~division~~ committee for three (3) year terms. The members of the audit ~~division~~ committee shall annually select one of the council members to be the chair. The responsibility of the chair of the audit ~~division~~ committee will be to preside over its meetings. The two council members ~~and the city manager~~ shall select the two private sector members. The private sector members shall serve three (3) year terms and shall not serve more than three (3) consecutive full terms.

2. That this ordinance shall become effective on its passage.

Adopted:

Certified:

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Clerk of Council

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